

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

CARLOS DIAZ,

Plaintiff,

v.

No. CIV 99-1371 BB/DJS

**STATE OF NEW MEXICO, NEW
MEXICO STATE POLICE,
DEPARTMENT OF PUBLIC
SAFETY, and OFFICER PAUL
TASHASH, Individually, Jointly and
Severally,**

Defendants.

**MEMORANDUM OPINION AND ORDER
DENYING PLAINTIFF'S MOTION
TO DISQUALIFY LAW FIRM**

**THIS MATTER is before the Court on Plaintiff's Motion to Disqualify
Lawyer and Associate Law Firm, and the Court finding absolutely no merit will
DENY the motion and caution Plaintiff pro se against such tactics.**

Discussion

Plaintiff pro se filed this motion based on the following allegations:

- 2. Lawyer Barbara Pryor is representing other
defendants in another lawsuit by the Plaintiff and
other parties in this same court.**

3. On May 4, 2000, in a rule 16 hearing primarily held for case file management of the instant case, this lawyer insisted upon giving a preview of a totally unrelated Title 42 case filed by Plaintiff, which she was defending, during the rule 16 hearing before Magistrate Don Svet.
4. Over the vigorous objection of Plaintiff, the Magistrate overruled Plaintiff, violating his due process rights, and permitted lawyer Pryor to continue with her preview of the totally unrelated case.

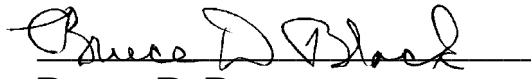
Pl.'s Mot. Disqualify at 1-2.

It goes without saying Plaintiff cites no law to support the assertion this conduct violated his constitutional rights. Rather, he cites various sections of the Code of Professional Responsibility which he considers to have been violated. Rather than violating disciplinary rules, however, investigating the prior litigation by pro se parties is recommended. See Scott Garland, *Avoiding Goliath's Fate: Defeating a Pro Se Litigant*, GP SOLO & SMALL FIRM LAWYER (Sept. 1998 ABA Trial Practice Section). Plaintiff should therefore refrain from filing frivolous motions as he is subject to serious judicial sanctions. *Vukadinovich v. McCarthy*, 901 F.2d 1439, 1445 (7th Cir. 1990), *cert. denied*, 498 U.S. 1050 (1991); *Baasch v. Reyer*, 846 F. Supp. 9, 11 (E.D.N.Y. 1994); *Thomas v. Taylor*, 138 F.R.D. 614,, 617 (S.D. Ga. 1991).

O R D E R

For the above stated reasons, Plaintiff's Motion to Disqualify Lawyer and Associate Law Firm is DENIED.

Dated at Albuquerque this 22nd day of December, 2000.


BRUCE D. BLACK
United States District Judge

Plaintiff pro se:
Carlos Diaz, Albuquerque, NM

Counsel for Defendant:
Barbara Pryor, McCary, Wilson & Pryor, Albuquerque, NM